

## REMARKS

Applicant thanks the Examiner for the indication of allowable subject matter in claim 13. Claims 1-5, 7-10, 12, 14-16, 23 and 25 are now pending in this application. Of these claims, claims 1, 10, 12 and 23 and 25 have been amended, while claim 13 has been canceled.

No new matter has been added to this application. For at least the reasons stated below, Applicant asserts that all claims are now in condition for allowance.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1-4, 7-10, 12, 14, 16, 23, and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Piglia*, U.S. Patent No. 2,141,484. Applicant opposes this rejection. Further, the Examiner should note that the indicated allowable subject matter of claim 13 has been added to amended claims 1, 10 and 12.

Applicants assert that *Piglia* fails to disclose all of the limitations of Applicant's current claims. First and foremost, *Piglia* is not a plant support as claimed by Applicant, but rather is a plant cover. See Figures 1-3. *Piglia* does have a frame (11), however, this frame is for the sole purpose of supporting the plant cover (10) not a plant. There is no disclosure in *Piglia*, expressly or inherently, to use the frame (11) without plant cover (10) or to use the frame to support a plant or plant container (emphasis added). To the contrary Applicant clearly claims a support structure (frame) that is for supporting plants and plant containers.

Moreover, *Piglia* fails to disclose, expressly or inherently, a ledge on the legs of a frame, AND that the legs are inserted into the ground, as claimed by Applicant. *Piglia* clearly does not have a ledge as claimed by Applicant. The outstanding Office Action cites element (15) in Figure 3 as a ledge, however, that clearly does not meet the limitations of a ledge of

Applicant's claims. Element (15) of *Piglia* is not shaped so as to permit application of a downward force by a plant support user to insert a portion of the plant support into the ground, as claimed by Applicant. Element (15) of *Piglia* simply rests on the ground.

Further, the purpose of *Piglia* is not to support a plant container. Applicant claims that a plant container is inserted into the interior space of the plant support and a portion of the plant container is resting on the upper ring of the support. Nowhere does *Piglia* disclose or suggest providing support to a plant itself or a plant container (*i.e.*, pot). The frame of *Piglia* is placed over a plant, not a plant inserted within the interior of the frame (11).

In summary, *Piglia* fails to disclose all of the limitations of Applicant's claims. Accordingly, Applicant asserts that the 35 U.S.C. § 102(b) rejection of claims 1-4, 7-10, 12, 14, 16, 23, and 25 is improper. Applicant requests withdrawal of the rejection.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Piglia*, U.S. Patent No. 2,141,484 in view of *Elliott*, U.S. Patent No. 5,640,802. Applicant opposes this rejection.

Applicant asserts that the modification of *Piglia* with the teaching of plastic material of *Elliott* fails to remedy the deficiencies of *Piglia*, as discussed in the 102(b) rejection above. *Piglia* is not a plant support as claimed by Applicant, but rather is a plant cover. *Piglia* fails to disclose or suggest a ledge on the legs of a frame, and that the legs are inserted into the ground. Moreover, *Piglia* fails to disclose or suggest a plant container supported by the frame.

Accordingly, Applicant asserts that the combination of *Piglia* and *Elliott* fails to disclose all of the limitations of claim 5. Thus, Applicant requests withdrawal of the 35 U.S.C. § 103(a) rejection of claim 5.

Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Piglia*, U.S. Patent 2,141,484 in view of *Howell*, U.S. Patent No. 5,050,339. Applicant opposes this rejection.

Applicant asserts that the modification of *Piglia* with the teaching of galvanized metal material of *Howell* fails to remedy the deficiencies of *Piglia*, as discussed in the 102(b) rejection above. Accordingly, Applicant asserts that the combination of *Piglia* and *Howell* fails to disclose all of the limitations of claim 15. Thus, Applicant requests withdrawal of the 35 U.S.C. § 103(a) rejection of claim 15.

### **Conclusion**

For at least the above indicated reasons, Applicant submits that all pending claims are distinguishable over the art of record and now in condition for allowance and respectfully requests that a Notice of Allowance be issued in this case. If the Examiner believes that a conference would be of value in expediting the prosecution of this application, the undersigned can be reached at the telephone number listed below.

Attached is a marked up version of the changes made to the specification by the current amendment. The attached page is captioned "Version with markings to show changes made."

Should any additional fees be necessary, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference No. 20386/305).

Respectfully submitted,

By

  
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